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**national farmers union**

*In Union is Strength*



**Memorandum**

**to the**

**Canadian Grain Commission**

**on the subject of the**

**1991 Review of the Licensing and Security Provisions**

**of the**

**Canada Grain Act**

**presented in**

**Saskatoon, Sask.**

**October 17, 1991**



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We welcome the opportunity to respond to the policy proposals outlined in your August 26, 1991 discussion paper.


The Commission has set out in point form a summary of general comments provided in its earlier consultations. We wish to comment briefly on each. These were as follows:

1. **The CGC should continue to license elevators and others that deal in grain.**

We concur with this general statement and believe that anyone who intends to commercially buy and/or sell grain should be subject to licensing by the Commission.

2. **There should be financial protection for farmers.**

We believe anyone who is licensed to trade in grain should be bonded to provide producers with 100% coverage of their product. The bonding security should be administered by the Commission and form an integral part of the licensing provision.



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We do not subscribe to the notion that security requirements should be kept at a minimum in order to encourage competition. Inadequate security requirements would only serve to attract fly-by-night operators and contribute toward the problem we are attempting to control.

**3. Farmers should take more responsibility for their dealings with grain companies.**

We agree with the statement, however, we also point out that a fully secured licensee would constitute less risk to the farmer than one that is only partially secured. Further, since the responsibility for licensing rests upon the Commission, it is, in the final analysis, the Commission which lends business credibility to a licensee. This does carry a considerable amount of weight with farmers who are considering the sale of their grain to a licensee. A license represents a character reference.

**4. The licensing and security system must be easy to understand.**

We fully concur with this statement.

**5. There should be an extensive information program to explain the licensing and security system to producers.**

Again we concur. The solution to any potential problem of a farmer not receiving officially-approved C.G.C. documentation can be found in a licensee being restricted to issuing only officially-approved C.G.C. cash tickets, elevator receipts and cash receipts.

**6. The rules should be the same for companies with similar operations and the provisions of the Act should be more strictly enforced.**



We fully agree and have previously stated that anyone dealing commercially in grain should be licensed.

**7. The cost of security should be as low as possible while still providing financial protection for farmers.**

Again, we fully agree. In our view, the cost of security could be kept low by having a public insurance agency underwrite all security risks related to the purchase and sale of farmers' grain. Conversely, the Commission might seek tenders from underwriters to cover the total risk which we are certain would be extremely fractional relative to the total value of the commodity handled.

**8. The system should be easy to administer so that C.G.C. costs can be kept as low as possible.**

We agree. This objective would be enhanced through the mandatory licensing of all dealers and the attendant provision of security through a single underwriter.

**9. The method of determining the level of licensing fees should be reviewed.**

We cannot comment in detail on this proposal, however, we consider the C.G.C. as a public regulatory agency has a mandate to protect the public interest. In the fulfilment of this mandate, it should not be a necessary criteria that it be strictly based on a cost-recovery or user-pay condition.

**10. The concept of user pay should apply to farmers who wish to protect themselves in their grain transactions.**

We do not agree with this concept. As stated in previous comments, the provision of security should be built into the licensing provision. The onus for the





provision of such security must be a condition for licensing. The Commission must perform the necessary administrative function to assure all conditions for licensing are met. The victims of crime do not carry crime compensation insurance in our society. The proposal that farmers must protect themselves is simply placing the responsibility in the wrong place. It would be a cop-out on the part of the Commission (having issued a license) to assume the position that it has only a peripheral interest in loss claims a producer may have against one of the Commission's licensees.

### **C.G.C. LICENSING AND SECURITY POLICY PROPOSALS:**

- 1. All companies and individuals that purchase grain from farmers and use Canada Grain Act grade names must be licensed by the C.G.C.**

We concur with this proposal. If this concept is applied, it should then not be possible for non-licensees to sell grain in competition with licensed elevators without invoking a penalty for doing so. We would assume that licensed companies would file complaints with the Commission and provide hard evidence to support charges against non-licensees.

- 2. The C.G.C. will establish the level of security to be posted based on an affidavit signed by the licensee and on the C.G.C.'s evaluation of the licensee.**

We agree it is the responsibility of the C.G.C. to establish the level of security required of a licensee. We support the concept that licensees must be financially able to post a minimum level of security as determined by the Commission.

- 3. Producers will only be eligible to claim against security for 30 days after grain is delivered.**



We believe farmers must become more responsible for obtaining prompt payment for their grain, however, limiting their claim against security to 30 days after grain is delivered presents a serious problem. Although a farmer may have received C.G.C.-authorized documents, a company may provide reasons why payment has not been issued within the 30 days which will keep a farmer "on the string" beyond the 30-day period. Any number of excuses could be used - "shipping delays", "derailments", "strikes", "shortage of rail cars", "waiting for an official grade", etc., etc.

This could go on for a couple of months before the truth is finally revealed - the company is bankrupt. By this time, the 30-day period for payment has passed and so has the 15-day claim on default of payment.

We believe security should mean just that. It should not be so easy to defraud a farmer of the value of this product. The 30-day period is too short. It should be at least 60 days and preferably 90 days. Even personal cheques are not considered stale-dated under 90 days. The claim period on default of payment should also be extended from 15 days to at least 30 days.

**4. Claims against security will be limited to 80% of the value of the documents held.**

We believe claims made within a claim period should be secured at 100% of the value of the documents held. The Canada Grain Act must be seen to be more concerned about protecting producer interests than in reducing the cost licensees incur in posting security.

**5. The C.G.C. will amend the licensing and security provisions of the Canada Grain Act so they can be enforced more strictly.**





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We concur in principle with the C.G.C. tightening its licensing and security provisions. If it is the Commission's function to serve as "the farmers' watchdog over the grain trade," it will need to take whatever actions are necessary to assure that the trade operates in a responsible and business-like manner with farmers.

Certainly the widest public publicity should be given to any company that does not renew its license or otherwise is in default or bankrupt.

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All of Which is Respectfully  
Submitted by:

**NATIONAL FARMERS UNION**

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We agree to comply with the E.O. regarding the handling and  
storage of records. It is the Commission's function to serve as the primary  
watchdog over the public sector, and we will need to take whatever action we deem  
to ensure that the public operates in a responsible and business-like manner with  
taxpayers.

Certainly the public's confidence should be given in any capacity that  
does not cause the public to believe in its ability to function.

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Attest: \_\_\_\_\_  
Secretary

NATIONAL FARMERS UNION